Intent to Argue

A Guide to Resources in the Law Library

- **Notice of Intent to Argue**: "Oral argument is at the discretion of the judicial authority except as to motions to dismiss, motions to strike, motions for summary judgment, motions for judgment of foreclosure, and motions for judgment on the report of an attorney trial referee and/or hearing on any objections thereto. For those motions, oral argument shall be a matter of right, provided:
  (1) the motion has been marked ready for adjudication in accordance with the procedure indicated in the notice that accompanies the short calendar on which the motion appears, and
  (2) the movant indicates at the bottom of the first page of the motion or on a reclaim slip that oral argument or testimony is desired or
  (3) a nonmoving party files and serves on all other parties pursuant to Sections 10-12 through 10-17, with proof of service endorsed thereon, a written notice stating the party's intention to argue the motion or present testimony. Such a notice shall be filed on or before the third day before the date of the short calendar date and shall contain (A) the name of the party filing the motion and (B) the date of the short calendar on which the matter appears.." CONN. PRACTICE BOOK § 11-18(a) (2004 ed.).
- "As to any motion for which oral argument is of right and as to any other motion for which the judicial authority grants or, in its own discretion, requires argument or testimony, the date for argument or testimony shall be set by the judge to whom the motion is assigned." CONN. PRACTICE BOOK § 11-18(b) (2004 ed.).
- **Reclaim**: "If a case has been designated for argument as of right or by the judicial authority but a date for argument or testimony has not been set within thirty days of the date the motion was marked ready, the movant may reclaim the motion." CONN. PRACTICE BOOK § 11-18(c) (2004 ed.).
- "Failure to appear and present argument on the date set by the judicial authority shall constitute a waiver of the right to argue unless the judicial authority orders otherwise." CONN. PRACTICE BOOK § 11-18(d) (2004 ed.).
- "Nothing in this section requires the judicial authority to rule on a motion before the expiration of 120 days." CONN. PRACTICE BOOK § 11-18(e) (2004 ed.).

Sections in this chapter:

Tables in this chapter

Section 1

Notice of Intent to Argue

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SCOPE:

- Bibliographic resources relating to Notice of Intent to Argue including related short calendar procedures.

DEFINITION:

- **Oral argument shall be a matter of right**: ". . . motions to dismiss, motions to strike, motions for summary judgment, motions for judgment of foreclosure, and motions for judgment on the report of an attorney trial referee and/or hearing on any objections thereto. For those motions, oral argument shall be a matter of right, provided . . ." CONN. PRACTICE BOOK § 11-18(a) (2004).
- "The substitute plaintiff argues in his reply brief that oral argument was available as a matter of right without meeting the procedure set forth in Practice Book § 11-18(a). That simply is inaccurate. Practice Book § 11-18(a) provides that oral argument shall be a matter of right only if the motion has been marked ready and the movant indicates at the bottom of the first page that oral argument is desired." Bojila v. Shramko, 80 Conn. App. 508, 518, 758 A.2d 906 (2003).
- **N/A**: nonarguable
- **Arg**: Arguable

COURT RULES:

- CONNECTICUT PRACTICE BOOK (2001).
  § 11-18.Short Calendar—oral argument of motions in civil actions

HISTORY:

- Amended June 23, 1995, to take effect October 1, 1995.

FORMS:

- KIMBERLY A. PETERSON, CIVIL LITIGATION: CONNECTICUT, MASSACHUSETTS, NEW JERSEY, NEW YORK, & RHODE ISLAND (1999).
  Example 7-1. Connecticut, Notice of Intent to Argue, p. 147
- KIMBERLY A. PETERSON, CIVIL LITIGATION IN CONNECTICUT: ANATOMY OF A LAWSUIT (1998).
  Chapter 8. Pleadings: an Overview
  Example 1, Notice of Intent to Argue, p. 86.
- RALPH P. DUPONT, DUPONT ON CONNECTICUT CIVIL PROCEDURE (2001 ed.)
  Form 11-18. Notice of Intent to Argue, p. 784

WEST KEY NUMBERS:

- *Trial* # 12. Short-cause calendars

COURT CASES

- Davis v. Westport, 61 Conn. App. 834, 839-840, 767 A.2d 1237 (2001). "Therefore, we concluded that 'even if [Practice Book (1999) § 19-16] grants . . . oral argument as of right, it is not automatic but must be claimed for argument as provided in [Practice Book (1999) § 11-18]. . . . Aside from the plain meaning of the words of those sections, which do

not grant oral argument as of right . . . judicial economy and practicality require a common sense reading of both sections.' Paulus v. LaSala, [56 Conn. App. 139, 146, 742 A.2d 379 (1999), cert. denied, 252 Conn. 928, 746 A.2d 789 (2000)]."

- Dietzel v. Redding, 60 Conn. App. 153, 166, 758 A.2d 906 (2000). "We note, parenthetically, that the Oppenheimers had requested oral argument on the motion to intervene. Pursuant to Practice Book § 11-18, however, oral argument is at the discretion of the trial court for that type of motion, and, therefore, the court was not obligated to provide them with an opportunity for oral argument."

TEXTS & TREATISES:

- KIMBERLY A. PETERSON, CIVIL LITIGATION: CONNECTICUT, MASSACHUSETTS, NEW JERSEY, NEW YORK, & RHODE ISLAND (1999).
  - Chapter 7. The pretrial stage: motions and objections
    - State summaries
      - Motion practice in Connecticut
        1. Motions and pleadings
           - D. Oral arguments as a right: Pbs 11-18
           - E. When oral argument is not requested
           - F. When an opposing party wants oral argument
           - G. Deadline for file Notice of Intent to Argue
           - H. Oral argument for other motions or objections
- KIMBERLY A. PETERSON, CIVIL LITIGATION IN CONNECTICUT: ANATOMY OF A LAWSUIT (1998).
  - Chapter 8. Pleadings: an Overview
    - VI. How pleadings are decided: Short Calendar
      - E. When opposing party wants oral argument
- 1 WESLEY W. HORTON AND KIMBERLY A. KNOX, CONNECTICUT PRACTICE, PRACTICE BOOK ANNOTATED (1998).
  - Chapter 11. Motions, requests, orders of notice
    - Authors' comments following § 11-18
- RALPH P. DUPONT, DUPONT ON CONNECTICUT CIVIL PROCEDURE (2001 ed.).
  - Chapter 11. Motions, requests, [applications] orders of notice and short calendar
    - § 11-18.1 Requesting oral argument; testimony

COMPILER: Lawrence Cheeseman, Supervising Law Librarian, Connecticut Judicial Department, Law Library at Middletown, One Court Street, Middletown, CT 06457. (860) 343-6560.

Table 1 Comments and History P.B. sec. 11-18 (Notice of Intent to Argue)

Comments and History Conn. Practice Book § 11-18	
56 CONN. L.J. no. 27 (May 9, 1995), p. 27C, reprinted in 2000 CONN. PRACTICE BOOK (Rev. of 1999), p. 136.	The amendments to this section provide that motions in civil matters involving foreclosures marked ready will be assigned to a judge who shall, at his or her discretion, either adjudicate the matter on the papers or, within 30 days notify counsel to appear for oral argument on a designated occasion, usually the next short calendar day. Oral argument will be a matter of right as to motions to dismiss, motions to strike and motions for summary judgment. In foreclosure cases, oral argument will be a matter of right as to motions for judgment. The revision provides that if oral argument is not scheduled within thirty days, counsel may reclaim the motion. This procedure would not affect the rule that short calendar motions should be decided within 120 days. All the large judicial districts divide the ready short calendar matters among the available judges so that there is an opportunity to consider the motions before argument. Small judicial districts tend to assign the whole calendar to a single judge, who usually has no opportunity to review the files before the calendar is heard. In most judicial districts all of the judges assigned to civil matters spend a full day each week hearing and deciding short calendar motions. Many of these motions do not advance the litigation. The burden and expense of processing and reprocessing motions falls on the clerks' offices, and often the court has no need for oral argument. The amendments place oral argument at the discretion of the court. Subsection (B) provides the opportunity to reclaim the motion (such that it would be reassigned to another judge on another short calendar day) and is meant to remedy situations in which motions are not scheduled promptly for oral argument. The proposed revisions are intended to reduce the number of times a particular motion is scheduled, thereby affording large savings for the clerks' office. It also appears that the number of judge-hours needed to decide motions would be reduced so that fewer judges would need to be assigned to the task of hearing motions, and trials could proceed on more days per week, especially with state trial referees available to decide motions. It is suggested that an increase in trial time may ease docket backlog. The proposed recommended closely resemble the procedure used in federal court, where the time devoted to hearing motions is minimal and where only those motions that are actually necessary tend to be filed.
56 CONN. L.J. no. 27 (May 9, 1995), p. 27C, reprinted in 2000 CONN. PRACTICE BOOK (Rev. of 1999), p. 136.	HISTORY: In 2000, the first paragraph of (a) "and" was deleted between "motions for summary judgment," and "motions for judgment of foreclosure." Also at that time, the words "and motions for judgment on the report of an attorney trial referee and /or hearing on any objections thereto." were added at the end of the first sentence in (a).
60 CONN. L.J. no. 46 (May 18, 1999), p. 21C, reprinted in 2000 CONN. PRACTICE BOOK (Revision of 1999), p. 136.	COMMENTARY: The amendments to this section provide that counsel and parties who consent to have a case heard by an attorney trial referee are entitled to argument "as of right" before a judge when the report of the attorney trial referee is considered for judgment. Affording counsel and parties the right to argument may encourage participation in the attorney trial referee program. It also provides another avenue for continued oversight of the program.

Table 2 Unpublished Connecticut Cases: Notice of Intent to Argue

Unpublished Connecticut Cases **Notice of Intent to Argue**	
Nadeau v. Tracy, No. CV 02-0282226S (Conn. Super. Ct., New Haven at Meriden, Dec. 2, 2003), 2003 WL 22905182 (Conn. Super. 2003).	"Pursuant to Practice Book § 11-18(d), the court treated nonappearance by defense counsel at the hearing as a waiver of the defendants' right to argue, heard argument from plaintiff, and then denied the motion to strike for the reason stated below."
Nair v. Belcher, No. CV 01 0163122 (Conn. Super. Ct., Waterbury, Dec. 10, 2001), 2001 WL 1681964 (Conn. Super. 2001).	"The court had set the matter down for oral argument not only because argument was initially requested by the plaintiff, but also because the court determined, pursuant to Conn. P.B. § 11-18, that oral argument would be of assistance to the court in deciding the motion. In light of the failure of counsel for both the plaintiffs and the defendants to appear as ordered, the court declines to issue a ruling on the Motion to Strike (#110) at this time."
Gyadu v. Perlstein & Ayars, No. CV94-0121751S (Conn. Super. Ct., Waterbury, Jan. 26, 1999), 1999 WL 49770 (Conn. Super. 1999).	"The first issue is that the court granted the defendant's motion for summary judgment without affording the plaintiff oral argument on the motion. This issue is nonfrivolous in that oral argument is a matter of right on a motion for summary judgment. Practice Book § 11-18."
Matos v. B-Right Trucking Co., (Conn. Super. Ct., Fairfield at Bridgeport, January 9, 1996), 15 CONN. L. RPTR. 650, 1996 WL 38247 (Conn. Super. 1996).	"The motion to reargue is denied. Under Practice Book § 211(A) [now 11-18], as amended effective October 1, 1995, oral argument on such motions is within the discretion of the court. When the defendant filed its Notice of Intent to Argue, it did not explain why oral argument was necessary nor did it explain why the defendant should prevail. Section 211 was amended to facilitate the resolution of short calendar motions. Clearly, the two motions decided by the court were ones which could be decided without oral argument. Whenever a litigant files a motion of the class for which oral argument does not exist as of right, the opposing party must do something more than merely file a notice of intent to argue. Otherwise, the amendment to § 211 will have had no effect whatsoever."